

REMARKS

Upon entry of this amendment, claims 1-113 will be pending. Claim 31 is currently amended to obviate the 35 USC 101 rejection. Claims 59 and 76 are amended to obviate the 35 USC 112 rejection. Claims 91-113 are new and are provided to further protect applicants' invention. Basis for new dependent claim 91 is found at page 24 of applicants' specification. Basis for claim 92 is found at page 29 of applicants' specification. Basis for claim 93 is found at page 22 of applicants' specification

A. **CLAIMS 1-57 ARE NOT OBVIOUS UNDER 35 U.S.C. § 103**

The Office Action repeats the rejection of claims 1-57 as unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,206,803 to Vitagliano et al. ("the Vitagliano patent") in view of U.S. Patent No. 5,884,285 to Atkins ("the Atkins patent"), U.S. Patent No. 6,105,007 to Norris ("the Norris patent"). Additionally, the Office Action rejects claims 58-69, 74-86 and 90 under 35 USC 103 over Vitagliano in view of Norris and claims 70-73 and 87-89 over Vitagliano in view of Norris and further in view of U.S. Patent No. 5,214,579 to Wolfberg et al. (the Wolfberg patent). These rejections are respectfully traversed and reconsideration thereof is requested.

Applicants will begin the discussion by referring to claim 58, which is rejected over Vitagliano in view of Norris. Claim 58 calls for

at least one processor; and

a computer-readable memory operatively connected to the at least one processor, with instructions capable of performing steps comprising:

receiving information reflecting a loan request for a loan-request amount of funds made by said participant from a loan fund, wherein the loan fund is defined as a separate asset-funded account from which money is drawn for loans, wherein the loan fund is one of the plurality of investments in the benefit plan account;

verifying that said loan-request amount does not exceed a current balance of available funds in said loan fund using account information for said loan fund, said account

information for said loan fund being stored by said computer system separately from account information for said benefit plan account;

initiating transfer of said amount of funds requested by said participant loan request from said loan fund if said loan-request amount has been verified to not exceed said current balance of available funds in said loan fund; and

updating said account information for said loan fund that is separately stored from account information for said benefit plan account to reflect said loan-request amount of funds transferred from said loan fund using an accounting process that computes the current balance of available funds in the loan fund based on redemptions and payments from the amount of assets in the loan fund and does not change a loan fund asset amount listed in the account information of the benefit plan account relating to the loan fund.

None of the References Disclose a Loan Fund:

Of primary importance, none of the references cited by the examiner disclose a loan fund, i.e., a separate account that contains funds from which money is drawn for loans. The pertinent definition for a “fund” is “A sum of money set aside for a specific purpose.” Webster’s New College Dictionary, Houghton Mifflin, 1995. In the present case, the specific purpose is to draw against assets in the account for loans. Although the definition of “loan fund” is inherent in the term, the following definition has been added to claims 58, 75 and 103 to provide clarity: --wherein the loan fund is defined as a separate asset-funded account from which money is drawn for loans--.

Note that the claim element “initiating transfer of said amount of funds requested by said participant loan request from said loan fund” focuses on the transfer of funds, not from the benefit plan, but from the funded account that is the loan fund.

None of the References Disclose Use of an Accounting Process with the Loan Fund that does not Change a loan fund asset amount listed in the Account Information of the Benefit Plan Account Relating to the Loan Fund:

Additionally, the limitation “updating said account information for said loan fund that is separately stored from account information for said benefit plan account to reflect said loan-request amount of funds transferred from said loan fund using an

accounting process that computes the current balance of available funds in the loan fund based on redemptions and payments from the amount of assets in the loan fund and does not change a loan fund asset amount listed in the account information of the benefit plan account relating to the loan fund,” (emphasis added) is disclosed or suggested by Vitagliano or Norris or Atkins or Wolfberg et al. This claim limitation is made possible by the existence of the separate asset-funded account from which money is drawn for loans, the loan fund. These elements operate together to make a non-obvious combination that creates a synergy (note that a synergy is not required in the Patent Law for patentability) to allow the accounting processes for the asset-funded account that is a loan fund and for the benefit plan account to be separated/segregated, to thereby divorce the individual loan-request process from the fluctuating asset values in the benefits plan, so as to provide in some embodiments a substantially fixed loan fund amount against which to make loans, and divorces the redemption/payment accounting process required for credit cards and other loan initiating vehicles from the accounting process for the benefit plan.

Referring to Vitagliano, there is disclosed a single benefit plan account wherein money for a loan is not drawn from a separate fund, **but** rather is drawn from a line of credit based on the total assets for the benefit plan account, with the result that the loan limit fluctuates with the value of the assets in the benefit plan account and the benefit plan account itself must perform the accounting processes for each loan granted or redemption paid against the total assets. In particular, Vitagliano states that it provides a line of credit (not an account that is asset-funded), that is drawn against the assets of the entire benefit plan. In this regard, see Vitagliano as follows at column 2, line 36 – column 3, line 11:

In summary, the present invention accesses traditional pension plan management vehicles to establish a line of credit for participant use. In this regard, the pension plan will be one analogous to a 401(K), or 403(b), or similar account type plan constructed for the accumulation of capital assets to support future pension and/or retirement needs of the plan participant. Plans of this nature may be designed with a variety of separate embellishments. For the purposes of the discussion herein, it is assumed that the plan provides separate accounts for individual participants. Each of these accounts represent an accumulated level of capital that is invested in various financial vehicles, such as stocks, bonds or other fundable assets. (Emphasis added.)

There are normally three sources of income to the various pension accounts. The first is the direct contribution by the employee, usually by payroll deduction. The second source is by employer contributions, and this may be tied or in relation to the employee contribution. The last form of contribution is the return on the existing plan capital, in the form of interest and dividends. In a negative investment environment, this income may

become negative. As can be seen, the Available Capital associated with a particular plan account is a fluid value that must be continually updated. (Emphasis added.)

Referring now to FIG. 1, an information flow diagram is presented starting with the pension plan, block 10. A series of pension account balances are established and updated on a periodic basis. In this regard, pension plan, block 10, and the account balances associated therewith will receive adjustments pursuant to the contributions by the employer, block 20, and the employee, block 30, as part of a regular income that may become negative. In addition, the pension plan will receive a return on an investment, including interest payments from the plan participant for accessed funds. These accumulations result in the establishment of the Available Capital (AC) for each account in the plan. The Available Capital is taken by the system monitor, block 40, and used to determine a line of credit (LOC) for each plan participant. The determination of a line of credit will be based on a measured fractional value of the Available Capital sufficient to ensure repayment and to meet any legal limits. (Emphasis added.)

See also column 3, lines 22-28:

In operation, the system monitor, block 40, is linked to an individual pension plan and possibly other sources of credit, block 50. Only the vested value in the pension plan is made accessible as part of the Available Capital. This Available Capital can exist in many forms, including stocks, bonds, CDs, etc.; each of which provides a separate return to the pension plan, block 110. (Emphasis added.)

See also Vitagliano at column 3, lines 32-43 as follows:

The plan participant is provided checks and/or a credit card for use at consumer establishments, block 100, in accordance with conventional bank card and check transaction arrangements. In this way, purchases are made by check or credit card with the ensuing purchased amount first sent to credit processing, block 70, to ensure that the amount is consistent with the available line of credit then pending; if so, the purchase is approved and the purchase price withdrawn from the pension plan as an investment (WDL). This investment by the pension plan is a loan to the plan participant at the then prevailing interest rate. (Emphasis added.)

From these quotes, it is seen clearly first, that the Available Capital which provides the basis for the credit, is tied directly to the fluctuating asset values in the overall benefit plan account, and does not disclose or suggest the limitations “*initiating transfer of said amount of funds requested by said participant loan request from said loan fund,*” where the loan fund is a separately asset-funded source of money.

Additionally, the pension plan of Vitagliano requires that all accounting for the redemptions and payments for the loans be performed using an accounting process that operates on the assets of the entire benefits plan. Thus, the updating limitation *“updating said account information for said loan fund that is separately stored from account information for said benefit plan account to reflect said loan-request amount of funds transferred from said loan fund using an accounting process that computes the current balance of available funds in the loan fund based on redemptions and payments from the amount of assets in the loan fund and does not change a loan fund asset amount listed in the account information of the benefit plan account relating to the loan fund”* is not met.

To summarize, because Vitagliano withdraws funds from the benefit plan account, it cannot have a separate asset-funded account from which loans are drawn, i.e., the *loan fund*, so that it also cannot meet the claim element *“initiating transfer of said amount of funds requested by said participant loan request from said loan fund.”* Moreover, the lack of the separate account that contains funds from which loans are drawn, i.e., the *loan fund*, prevents the use of an accounting process that divorces the redemption/payment operations for credit cards and other loan initiating vehicles from the accounting for the benefit plan, i.e., there can be no *“accounting process that computes the current balance of available funds in the loan fund based on redemptions and payments from the amount of assets in the loan fund and does not change a loan fund asset amount listed in the account information of the benefit plan account relating to the loan fund.”* The present invention uses a separate account process that keeps track of and processes each redemption and each payment against the separate asset(s) in the loan fund to calculate a current balance of available funds in the loan fund, but without changing the loan fund asset amount listed in the account information of the benefit plan account relating to the loan fund. This is accomplished because as far as the a loan fund asset amount listed in the account information of the benefit plan account is concerned the value of the “loan fund” remains constant despite redemptions from and payments to the “loan fund”, since its value would be the total funds in the loan funds plus the total debts due by the debtor to the loan fund. In other words, the amount of the assets listed for the loan fund in the benefit plan account remains the same in this inventive configuration regardless of the redemptions made from and payments made to the loan fund.

Referring to Norris, there is disclosed a processing system for use with a kiosk that provides automatic processing to authorize loans, set up checking

accounts, set up savings accounts retirement accounts and issue credit cards. See the Summary of the Invention at column 2, line 37 – column 3, line 9.

In Norris loans are granted or denied based on a credit score and an associated risk factor, not against a segregated loan fund. See column 6, lines 13-23.

In a preferred embodiment, transaction processor 10 inquires of the consumer as to the type of transaction desired and selects the corresponding application or account information module, 130, 140, respectively, that then assists its informational gathering activities. If the consumer wishes to apply for a loan, credit or to set up a new account, application module 130 is activated to obtain the requisite information from the consumer and comply with lending institution and regulatory requirements associated with the particular application.

And see column 6, lines 45-51:

The applicant's credit report is obtained from the credit bureau by transaction processor 10, evaluated using an underwriting model 90, to be described more fully below, and a decision is made based on the results of the evaluation by underwriting model 90, which results are in the form of a score and an associated risk factor, to grant or deny the loan or credit card application. (Emphasis added.)

There is no reference or teaching in Norris of a loan fund, i.e., “*a separate asset-funded account from which money is drawn for loans, wherein the loan fund is one of the plurality of investments in the benefit plan account.*” Likewise, there is no disclosure of “*verifying that said loan-request amount does not exceed a current balance of available funds in said loan fund using account information for said loan fund, said account information for said loan fund being stored by said computer system separately from account information for said benefit plan account.*”

Likewise, because there is disclosure in Norris of a separate asset-funded account from which money is drawn for loans, there can be no disclosure of

“*initiating transfer of said amount of funds requested by said participant loan request from said loan fund if said loan-request amount has been verified to not exceed said current balance of available funds in said loan fund.*”

Likewise, there is no disclosure in Norris of

“updating said account information for said loan fund that is separately stored from account information for said benefit plan account to reflect said loan-request amount of funds transferred from said loan fund using an accounting process that computes the current balance of available funds in the loan fund based on redemptions and payments from the amount of assets in the loan fund and does not change a loan fund asset amount listed in the account information of the benefit plan account relating to the loan fund.”

Norris not only does not supply the deficiencies of Vitagliano relating to these claim limitations, but also the kiosk operation of Norris is so different from the pension-credit system of Vitagliano that there is no motivation in one of ordinary skill in the art to modify Vitagliano with any teaching from Norris.

Although Atkins (5,884,285) is not applied in the office action against claim 58 and is cited against claim 1 for teachings related to initializing loan-fund information. Atkins will be distinguished for completeness of response. Atkins relates to a mortgage-backed investment vehicle where the regular amortization payments for a mortgage are invested instead in a pension plan, IRA, Keogh or other benefit plan. See column 2, lines 18-38 of the Summary of the Invention as follows:

In the preferred embodiment, the central structural element of this integrated financial product package is a type of mortgage that features a variable amortization schedule and is secured by the pledge of real property and one or more other assets. This mortgage is called a Home Owner's Preferred Equity (HOPE) mortgage. Unlike conventional mortgages which provide for regular amortization payments, the mortgage need not be amortized.

Rather, the system of the present invention gives the mortgagor the opportunity to maximize his investment earnings by a variety of means including distributing the monies that would normally be used to amortize the mortgage among assets that give him the greatest return. For example, the mortgagor, hereinafter referred to as the "client", has the option to use the funds that would otherwise have been used to amortize the mortgage to make a contribution to a pension or retirement account such as an IRA, KEOGH, S.E.P. or corporate pension plan. Alternatively, the client may purchase "tax favored" investments such as life insurance or annuities in which earnings on premium payments, or "insider buildup", are not taxed until they are withdrawn.

Thus, amortization payments for the mortgage, are provided to one of the benefit plans. This movement of funds to the benefit plans is a direct teach-away from the invention

defined in claim 58.

The collateral for the system is the customer's homes and benefit plans. See column 10, lines 53-65, as follows:

The acceptable forms of collateral illustratively include: one or more homes which would be valued for purposes of collateralization at a percentage of their appraised fair market value, insurance and annuity policies valued for purposes of collateralization at their net fair market or cash redemption value, various forms of pension and deferred compensation plans and accounts valued for purposes of collateralization at their net fair market value, banking accounts including checking and savings accounts to be valued for purposes of collateralization at their net account balances, mutual funds to be valued for purposes of collateralization at the net fair market redemption value and other forms of alternate collateral.

Regarding the elements of claim 58, there is no teaching or suggestion in Atkins of a loan fund that is "a separate asset-funded account from which money is drawn for loans, wherein the loan fund is one of the plurality of investments in the benefit plan account."

Likewise, there is no disclosure of "verifying that said loan-request amount does not exceed a current balance of available funds in said loan fund using account information for said loan fund, said account information for said loan fund being stored by said computer system separately from account information for said benefit plan account; . . . initiating transfer of said amount of funds requested by said participant loan request from said loan fund if said loan-request amount has been verified to not exceed said current balance of available funds in said loan fund."

Likewise, Atkins discloses continually determining the outstanding balance of the mortgage loan and comparing that outstanding balance to the value of all of the assets used as the collateral. See column 11, lines 9-29:

The financial terms and conditions of the HOPE mortgage which are substantially new and different from those of conventional mortgages include: a continuous real time determination of the permissible outstanding balance of the mortgage which takes into consideration the value of all assets used to collateralize the mortgage; interest payments which can be either in the form of fixed, floating, or a combination of fixed and floating interest payments as determined by the client and lending institution; the required amortization payments, if any, which may, in the preferred embodiment of the invention, constitute zero amortization payments in exchange for the client making alternative investments in assets or asset accounts of his choice; the term or life of the mortgage which would in many instances be of a term of 15 to 30 years but could be different dependent upon agreements reached by the

lending institution and the client; required fees and expenses for the initiation and continuation of the HOPE mortgage including origination fees, servicing fees, closing costs and prepayment penalties; and other terms and conditions as may be required.

There is no updating of the account information in any form of loan fund, per claim 58 and all of the collateral is used in the calculation including the benefit plan collateral. See also column 16, lines 8-40 on this point as follows:

As will be illustrated, if the value or status of any component of the HOPE account changes, so do the account balances, inter-component relationships, and future financial projections of the account. Thus, before an order is executed, a "what if" analysis is performed wherein the HOPE account components are changed to reflect the proposed transaction and account balances and ratios are checked against the required minimums as dictated by the financial institution and regulatory authorities. If the account, taking into consideration the proposed transaction, meets all minimum requirements, the order is executed and the account is updated to reflect the transaction. If the account does not meet the minimum requirements the client is contacted and either the order or some other account component(s) is modified or the transaction order is cancelled such that the minimum requirements of the account are maintained.

In addition to performing "checks" prior to the execution of a transaction order, these checks are performed periodically to reflect any changes in the account components not related to a transaction, such as a change in the value of an asset or liability. Although the frequency of the check is chosen by the financial institution, the character of the account is an indicator as to how frequent the "checks" should be done. If the account is considered "inactive", i.e. the account has very few transactions and is composed of assets with stable values, the account may only be checked prior to issuing a monthly statement to the client. However, if the client has a portion of his capital in an asset such as commodities futures or options, the value of those assets will change as the price of the commodity or option changes. Therefore the status of the account will be checked more frequently if there is volatility in the value of the account components.

Atkins does account balancing for individual transactions against the value of the entire account.

Thus, Atkins does not meet the claim element

"updating said account information for said loan fund that is separately stored from account information for said benefit plan account to reflect said loan-request amount of funds transferred from said loan fund using an accounting process that computes the current balance of available funds in the loan fund based on redemptions and payments

from the amount of assets in the loan fund and does not change a loan fund asset amount listed in the account information of the benefit plan account relating to the loan fund.”

Accordingly, Atkins does not supply the deficiencies of Vitagliano and Norris relating to these claim limitations. Also there is no motivation provided to one of ordinary skill in the art to modify Vitagliano with the teaching of Atkins. And even if such a modification could be made (which it cannot), the combination still does not meet the claimed combination.

Finally, the reference Wolfberg et al. is cited in the office action relative to claims 70-73 and 87-89. Wolfberg et al. describes a system for creating an investment program that will have a minimum rate of return. Wolfberg et al. also provides limited borrowing privileges against the account by permitting check writing or loans against a predetermined percentage of funds that have accumulated based upon a minimum guaranteed rate of return in the main investment account, i.e., the amount of the fund available for a loan is directly tied to investment gains in the main account. See the Wolfberg et al. Summary of Invention as follows:

In an exemplary embodiment of the present invention, the data processing system is programmed to -track a predetermined guaranteed minimum rate return on a participants' investment base. While this predetermined minimum guaranteed rate of return may be any reasonable rate of return (e.g., 4%, 6%, 8% or more), in the detailed description which follows the guaranteed rate of return for purposes of example only is 8%.

In an exemplary embodiment, this minimum rate of return is guaranteed by the company managing all the participant investments. The managing company receives from an individual participant a predetermined initial investment base, and typically a commitment by the investor to make a predetermined monthly investment. At the outset, the client also selects a fixed target amount that the system utilizes as its target goal (e.g., \$100,000, \$500,000, \$1,000,000 dollars). Alternatively, the target amount may be based on a fixed percentage of the initial investment (e.g., 50%). The data processing system of the present invention tracks the growth of the initial investment base as well as the accumulated monthly payment base and periodically determines the time frame required to reach a participant's selected target goal based on current performance per projected or programmed guidelines. The funds may, for example, be invested in a tax deferred vehicle such as insurance or tax exempt securities. (Column 2, lines 5-32)

The system also monitors the amount of funds which the participant is allowed to borrow at any predetermined time. The amount which may be borrowed may, for example, be a predetermined percentage of the funds that have accumulated based upon the 8% minimum guaranteed rate of return.

As with any loan, the amount borrowed is expected to be repaid in scheduled monthly installments. Such is, by way of example only, repayment demanded by the system in order to keep the participant's account on track to the target goal. (Emphasis added.) (Column 3, lines 35-44)

Wolfberg et al. is a defined benefit plan (not a system for 401K or other contributory plans) and does not have a loan fund that is separately funded with assets. See Fig. 6 and its description at column 14, lines 10-40, and the text at column 10, lines 12-15, which reads as follows:

Funds for honoring the check, securing the investment, and granting the loan are extracted from the investment fund (104) as indicate by the dashed line leading thereto from block 158.

To summarize, the cited references do not disclose or make obvious the combination of elements

receiving information reflecting a loan request for a loan-request amount of funds made by said participant from a loan fund, wherein the loan fund is one of the plurality of investments in the benefit plan account;

verifying that said loan-request amount does not exceed a current balance of available funds in said loan fund using account information for said loan fund, said account information for said loan fund being stored by said computer system separately from account information for said benefit plan account;

initiating transfer of said amount of funds requested by said participant loan request from said loan fund if said loan-request amount has been verified to not exceed said current balance of available funds in said loan fund; and

updating said account information for said loan fund that is separately stored from account information for said benefit plan account to reflect said loan-request amount of funds transferred from said loan fund using an accounting process that computes the current balance of available funds in the loan fund based on redemptions and payments from the amount of assets in the loan fund and does not change a loan fund asset amount listed in the account information of the benefit plan account relating to the loan fund.

These elements operate together on the loan fund which is the separate asset-funded account from which money is drawn to allow the claimed accounting process element for the loan fund to be separated/segregated from the accounting process for the benefit

plan account, and divorces the individual loan-requests from the fluctuating asset values in the benefits plan, and provides a substantially fixed loan fund amount against which to make loans that is not affected by changes in the value of the benefit plan account.

The office action also references Rosen (6,122,625) and Slater et al. (4,114,027). These references do not seem to have any pertinence to the claims. Rosen discloses an electronic-monetary system having (1) banks or financial institutions that are coupled to a money generator device for generating and issuing to subscribing customers electronic money including electronic currency backed by demand deposits and electronic credit authorizations; (2) correspondent banks that accept and distribute the electronic money; (3) a plurality of transaction devices that are used by subscribers for storing electronic money, for performing money transactions with the on-line systems of the participating banks or for exchanging electronic money with other like transaction devices in off-line transactions; (4) teller devices, associated with the issuing and correspondent banks, for process handling and interfacing the transaction devices to the issuing and correspondent banks, and for interfacing between the issuing and correspondent banks themselves; (5) a clearing bank for balancing the electronic money accounts of the different issuing banks; (6) a data communications network for providing communications services to all components of the system; and (7) a security arrangement for maintaining the integrity of the system, and for detecting counterfeiting and tampering within the system. See the Summary of the Exemplary Embodiment. However, no reference in Rosen was found to a benefit plan, or a pension plan, or a Keogh plan or a 401K plan. The references to loans are in the context of loan payment transactions. See for example:

When operating in an Issuing Bank 1 mode, the Teller money module 5 is used for intermediating deposits, withdrawals, and payments to loan accounts between other money modules and the Issuing Bank's 1 on-line systems. Additionally, when the Teller money module 5 is performing in an Issuing Bank 1 mode, a TS Money Generator application 48 may be employed when requesting new notes 11. (Emphasis added.) (column 16, lines 30-37)

According to one aspect of the invention, a customer's Transaction money module 4 may access his/her accounts for deposits, withdrawals, transfers, etc., at any bank participating in the system and in particular any bank holding an account with the subscriber. For instance, a typical subscriber may have a savings account and a checking account at one of the participating banks, while maintaining a so-called money market account at a separate financial institution, and perhaps a credit-line account at a third participating bank. It is anticipated that a subscriber's Transaction money module 4 will access his/her accounts for deposits, withdrawals, loan payments and inquiries at any bank or financial institution which can be accessed through

the Network 25. (Emphasis added.) (column 24, line 65 – column 25, line 11)

Rosen's loan accounts are not loan funds. Specifically, no disclosure is seen in Rosen relating to a separate asset-funded account from which money is drawn for loans, where the loan fund is an asset in a benefit plan.

Regarding Slater et al., there is disclosed a bank system for operating remote, unmanned units for allowing a customer to perform a transaction using a bank card. Each remote unit is operable following a single customer card insertion, in either a first mode or a second mode, to process one or more transactions, including cash withdrawal, fund transfer and payment and deposit transactions. The references to a loan are limited. See for example,

Central processing unit CPU uses the customer's account balances and credit profile to compute a working balance, which comprises the amount of funds which the customer has available for on-line transactions, for each of the customer's credit-type accounts, such as his checking, savings and credit card accounts, it being noted here that the working balance for each of the customer's debit-type accounts, such as his mortgage and loan accounts, equals zero. Central processing unit CPU also uses the customer's account balances, including the account balances of both credit- and debit-type accounts, and credit profile to calculate an extended credit balance, i.e., a sum which extends a working balance when a customer transacts an on-line cash withdrawal. The purpose of the extended credit balance, to facilitate "split deposits" with little risk to the bank, will be discussed in greater detail below. Central processing unit CPU also uses the customer's account balances and credit profile to compute a maximum cash limit which prohibits the customer from withdrawing as cash more than a certain amount during any one use of the system while it is operating on-line. Central processing unit CPU uses bank code 304 (FIG. 7) to access an algorithm in algorithm file AF and uses the algorithm to calculate a line security code from date 302 and time 303 (FIG. 7) in the request message. Central processing unit CPU then assembles a reply message whose format will be described in greater detail below. (Emphasis added.) (column 12, lines 22-49)

As a specific example, suppose central station CS (FIG. 1) transmits the following data to remote unit 60 in a reply message: checking account - inquiry balance = \$200.00, working balance = \$100.00; savings account - inquiry balance = \$300.00, working balance = \$200.00; credit card account - inquiry balance = \$200.00, working balance = \$200.00; loan - inquiry balance = \$1,150.00, working balance = \$0.00; mortgage - inquiry balance = \$27,555.00, working balance = \$0.00; extended credit balance = \$100.00; and maximum cash limit = \$500.00. If the customer requests a balance inquiry transaction, remote unit 60 prints the five inquiry balances in a memorandum as indicated by customer and machine functions 65, 110, 111 and 112. If the customer next requests a \$200.00 cash withdrawal from his savings account, remote unit 60 dispenses \$200.00 to the customer, debits the working balance for his savings account and records the cash withdrawal as indicated by customer and machine functions 108, 109, 115, 116, 117, 118, 63, 64, 119,

120, 126, 127, 130, 131, 132 and 133. If the customer then requests a transfer of \$200.00 from his credit card account to his checking account, remote unit 60 debits the working balance for the customer's credit card account and records the fund transfer as indicated by customer and machine functions 108, 109, 115, 116, 117, 135, 136, 50, 51, 54, 55, 137, 137A, 138 and 133. Assume that the customer next requests a \$300.00 cash withdrawal from his checking account. Notwithstanding the credit-card-to-checking fund transfer, remote unit 60 would not permit a cash withdrawal in this amount since the amount desired exceeds the sum of working balance for the checking account and the extended credit balance transmitted in the reply message. Remote unit 60 would, however, dispense \$200.00 to the customer as indicated by customer and machine functions 108, 109, 115, 116, 117, 118, 63, 64, 119, 120, 121, 122, 122A, 126, 127, 130, 131, 132 and 133. The total of cash withdrawals is \$400.00 which is below the \$ 500.00 maximum cash limit. (Emphasis added.) (column 37, lines 18-56)

No reference is found in Slater et al. to a benefit plan, pension fund, Keogh plan, or 401K plan.

Evidentiary Declaration of Bruce Bent II

An evidentiary declaration of Mr. Bruce Bent II is also submitted herewith clarifying aspects raised by the Office Action regarding the Vernaglia declaration. A courtesy copy of the previously-submitted Vernaglia Declaration is being provided herewith. The Bent Declaration provides evidence of multiple failed attempts in the benefits plan industry in response to customer demand to implement the '803 (Vitagliano) patent by well-funded sophisticated benefit plan operations with substantial experience in the benefits plan field, namely, BankOne, GoldK and Sungard, over a series of year beginning in the mid-1990's.

The Bent Declaration also provides evidence of commercial success for the ReservePlusSM product as defined in claims 58, 75 and 105 despite the fact that the ReservePlusSM product has only been offered since June 2003.

The Bent Declaration also analyzes the Vitagliano, Norris, Atkins, and Wolfberg et al. patents and draws the conclusion that the claim element of a Loan Fund that is a separate asset-funded account from which money is drawn for loans, in combination with the element of Separate Storage for Loan Fund Information, in combination with Use of an Accounting Process with the Loan Fund that does not Change a loan fund asset amount listed in the Account Information of the Benefit Plan Account Relating to the Loan Fund is not present. Based on this analysis of the Vitagliano, Norris, Atkins and Wolfberg et al. patents and the missing claim features, and based on the evidence of multiple failures by sophisticated and well-funded heavy weights in the benefit plan administration and loan

management industry to implement the '803 patented system in the face of continuing customer demand for a solution, coupled with the failure of those companies to recognize the problems that prevented the implementation of the '803 patent, and based on the evidence of commercial success over a very short period time for the ReservePlusSM product, Mr. Bent then renders his opinion that at least claims 58, 75 and 105 are non-obvious.

In view of the arguments presented above, claims 58-113 as well as claims 1-57 should also be allowable.

Accordingly, Applicant respectfully submits that neither the '803 Patent, nor any of the prior art of record teach the claimed combination. For these reasons, Applicants respectfully traverse the Examiner's rejections based on 35 U.S.C. 103, and submit that the claims are in a position for allowance.

In view of the foregoing, Applicant respectfully submits that all the Examiner's objections and rejections have been addressed and that all of the claims in the present application are allowable. Accordingly, Applicant respectfully requests that the claims be reconsidered and passed to allowance.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date 8/8/05

By 

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